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P-3952-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	JOYCE BRETT
MARK:	A BAND-AID APPLIED JEWELRY DISPLAY
SERIAL NO.:	10/029,818
FILED:	December 31, 2001
EXAMINER:	Katherine W. Mitchell, Examiner, Art Unit 3677

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REPLY TO SUPPLEMENTAL ACTION OF 4/26/2005 OF KATHERINE W. MITCHELL

In RANDOMHOUSE WEBSTER'S College Dictionary, an apt definition of the word "quote" is "1. to repeat (a passage, phrase, etc.) from a book,...or the like." The immediately preceding use of quotation marks is strictly in accordance with the dictionary definition.

In the same way, the Examiner is wrong in complaining about the use of quotation marks used about a printed phrase from DETAILED ACTION -- response to Reply Brief at Page 2, in lines 18, 19, and it is entirely irrelevant that the Examiner did not vocalize the phrase. Since an exchange between an examiner and an applicant, except for interviews, is by

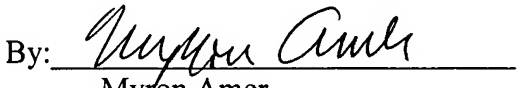
way of documents, the inability to use quotation marks would significantly hamper clarity in the exchange.

Addressing the substantive issue raised, the Examiner has not cited any statutory authority or decisional law requiring applicant to personally practice each of the recited steps of the claimed method. Nor does 35 U.S.C. §112, first paragraph impose such a requirement. All words in a claim must be considered in judging the patentability of that claim, there being no exception for an "existing property of the adhesive bandage." In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Furthermore, it is well established that the materials or apparatus on which a process is carried out must be accorded weight in determining the patentability of that process. See In re Pleuddermann, 910 F.2d 823, 825-28, 15 USPQ2d 1738, 1740-42 (Fed. Cir. 1990); In re Kuehl, 475 F.2d 658, 664-65, 177 USPQ 250, 255 (CCPA 1973); Ex parte Leonard, 187 USPQ 122, 124 (Bd. App. 1974). For the claim under review, the case law clearly establishes that the position of the Examiner is in error.

For the reasons set forth above, the decision of the examiner to reject claim 1 under 35 U.S.C. §112, second paragraph, should be reversed.

Respectfully,

MYRON AMER, P.C.
Attorney for Applicant

By: 
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Dated: May 10, 2005